

Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1976
No 76-1055

STANLEY V. TUCKER,
Petitioner

-v-

PEOPLE'S SAVINGS BANK-BRIDGEPORT,
Respondent

APPELLANT'S REPLY BRIEF PURSUANT TO RULE 24(4)

STANLEY V. TUCKER
Petitioner
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Appellant herein replies to misstatements of fact and inaccurate representations of law in Appellee's Brief as to finality of judgment for purposes of appeal.

I. FACTUAL MISREPRESENTATIONS

Appellee's Brief bottom Page 2 represents to this Court that the Rent Receiver, John S. Pinney was unconnected with counsel for

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Appellee, Neil Atlas, whereas both worked out of the same office, made joint inspections of the property damaged over \$100,000 in market valuation while under receivership and in the presence of Appellant. Neil Atlas represented in the Hartford Superior Court that his "close associate, John S. Pinney was a seasoned and experienced rent Receiver."

That about six months later after loss of about \$24,000 in rents, extensive damages to the property and loss of market value again in presence of Appellant John S. Pinney testified - "I have never been receiver of any commercial property"

II. MISREPRESENTATIONS AS TO THE LAW

Appellee seeks to purport to this Honorable Court that the judgment was not "final for purposes of appeal" using time worn cases from the 1940's that pre-date Lynch v Household

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Finance, 405 US 538, Tucker v Maher, 405 US 1052, and Fuentes v Shevin 407 US 67.

As a matter of fact carefully omitted from Appellee's Brief there exists a recent case where the Connecticut Supreme Court has considered the "finality for purposes of appeal" of an order on a pre-judgment remedy granting or denying the appointment of a receiver and expressly held that such an order is FINAL FOR PURPOSES OF APPEAL.

Dorado Bay International v North Haven Briarwood Corporation 167 Conn 623 1975

In Dorado Bay, supra, the Connecticut Supreme Court in a case of first impression reviewed the finality of an order denying the appointment of a receiver and held that an order granting or denying a receiver was FINAL FOR PURPOSES OF APPEAL.

at P 629: "The order made final disposition

of a judicial or quasi-judicial proceeding authorized by statute and was a final judgment for appeal"

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The clear and convincing argument in Dorado Bay, Supra, shows the decision is part of a long standing line of decisions that an order that permanently disposes of a right, such as an order appointing a rent receiver permanently interferes with the right to possess and control property, is under the pertinent Connecticut cases an appealable order.

Appellee infers that the express language of GS 52-2781 making all pre-judgment remedy orders appealable did not make such orders appealable until the effective date of June 2, 1976 of that statute. It is clear from examining the statute with the language of Dorado, Bay, supra, that the Connecticut Legislature did nothing more than to conform the written statute to the mandate of Dorado Bay, supra.

CONCLUSION

The orders appealed in this action and in companion case No 76-1063, Tucker v Hartford National Bank & Trust Co, where the same issues are raised in this court are both appealable and final and this Court should grant the Petitions for Certiorari and summarily reverse on the strength of Dorado Bay, supra.

Respectfully:

STANLEY V. TUCKER
Petitioner